At that time the period of limitation for personal injuries was one year, and the defendants pleaded limitation.

On March 22, 1953 the period of limitation was increased from one year to three years.

Held: the law must be considered at the date when the writ was issued and therefore a claim barred at the time when the writ was issued was not revived by a subsequent amendment of the law.

[Editorial Note: The learned Chief Justice in Noor Mohamed Yousoff v. Teo Kai Tee & Anor. (1953) M.L.J. 188 had to consider the effect of the amendment to the Limitation Ordinance. In the course of his judgment he said, "I do not think that in these days, unless there is ambiguity, it is possible to rely on any supposed presumption against retrospective operation of statutes or on any difference between the effect of legislation on substantive and adjectival law." In that case he held that a mere amendment could not be treated as a partial repeal.]

Case referred to:—

(1) *Allah Rakhi & Ors. v. Shah Mohammad & Ors.* I.L.R. 56 All. 111; A.I.R. 1934 P.C. 77.

ACTION.

J. E. Lloyd for the plaintiff.

N. L. Macassey for the defendant.

Cur. Adv. Vult.

Murray-Aynsley C.J. : — This concerns a point of law. The question is whether the action is barred by limitation.

An accident took place on February 4, 1950, in which the plaintiff sustained personal injuries. Other damages resulted to the property of the plaintiff. The writ was issued on March 1, 1951. At that time the period of limitation for personal injuries was one year. Therefore at the time it was issued the claim for personal injuries was statute barred and the plea of limitation in the Defence filed on May 21, 1952 was good.

On March 22, 1953, by an amendment to the Limitation Ordinance the period of limitation was increased to 3 years. There was nothing in the Ordinance which referred to the effect of the amendment on pending claims. It should be noted that when the amendment came into force more than three years had elapsed since the accident. It appears to me that the Privy Council case of *Allah Rakhi & Ors. v. Shah Mohammad & Ors.*[1] applies. The judgment in that case appears to lay down a general principle (at p. 116) that the law must be considered at the date when the writ is issued, and therefore a claim barred at the time when the writ is issued is not revived by a subsequent amendment of the law. The defendants succeed on the issue and the order must be that the claim of the plaintiff so far as it relates to personal injuries is barred. The defendants are entitled to the costs of the issue.

Action dismissed.

Solicitors: *Drew & Napier; Battenberg & Talma.*

REGINA v. GOH BOON KWAN

[Case stated (Murray-Aynsley C.J.) June 23, 1955]
[Singapore — Special Case No. 2 of 1955]

Probation of Offenders Ordinance, 1951, ss. 5 and 8 — Sentence fixed by law — Meaning of — Court of Criminal Appeal Ordinance (Cap. 11).

This was a reference to the High Court on a case stated under the provisions of s. 317 of the Criminal Procedure Code (Cap. 21). The accused in this case was charged with the offence of cheating in respect of a pressure lamp valued at $40 punishable under s. 420 of the Penal Code. The learned Magistrate found the accused guilty. As the article involved was of small value and as the accused had no previous conviction, the learned Magistrate discharged the accused on condition that he commit no offence for a period of 12 months under the provisions of s. 8 of the Probation of Offenders Ordinance. The matter was referred to the High Court as the learned Magistrate was doubtful whether he had power to apply the Probation of Offenders Ordinance to cases where an accused person is found guilty under a section of the Penal Code like s. 420 which appears to make the imposition of the penalty of imprisonment mandatory.

Held: the words "fixed by law" means a sentence which is fixed both in quantum and kind and therefore in this case the sentence under s. 420 of the Penal Code was not fixed by law and the learned Magistrate had discretion to act under the Probation of Offenders Ordinance.

[Editorial Note: S. 317 of Criminal Procedure Code (Cap. 21) has been repealed and replaced by s. 306 of the Criminal Procedure Code, 1955. This new section is based on the provisions of the Summary Jurisdiction Act, 1857 and the Administration of Justice (Miscellaneous Provisions) Act, 1938 and provides not merely for the reservation by Inferior Courts of points of law but also for cases to be stated for the consideration of the High Court on the application of the parties.]

CASE STATED.

A. V. Winslow (Crown Counsel) for the Crown.

Mary Lim Cheow Sim, amicus curiae.

Cur. Adv. Vult.

Murray-Aynsley C.J. : — This Case Stated by the learned Magistrate raised a question of interpretation of the Probation of Offenders Ordinance (27 of 1951), viz. the meaning of the term "a sentence for which is fixed by law" in sections 5 and 8.

These sections were copied from the English Act which, however, contained a definition which was omitted here. The matter gives rise to difficulties because the Penal Code contains sections, e.g. 420, where a sentence of imprisonment is mandatory.

The words "fixed by law" are found in the Criminal Appeal Act and the corresponding Ordinance. There it has been taken to mean a sentence fixed both in quantum and kind. In view of the anomalous results of a strict interpretation of the term, which would involve passing sentences of imprisonment which the Ordinance under consideration sought to avoid, I am constrained to give the term the same meaning as it has in the Criminal Appeal Ordinance.

Solicitors: *Battenberg & Talma.*